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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,528	05/08/2001	James A. Billmaier	4000.2.39	2607

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EXAMINER

GESESSE, TILAHUN

ART UNIT PAPER NUMBER

2684

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/851,528	<b>Applicant(s)</b> BILLMAIER, JAMES A.	
	<b>Examiner</b> Tilahun B. Gesessse	<b>Art Unit</b> 2684	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/15/01 &amp; 3/15/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-16,18-40,42-48,50-55,57-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Kanemitsu (US patent No. 6,928,262).

Claims 1,23, 59-61, Kanemitsu teaches a method for delivering radio programs and related schedule information using a mobile device (see figure 1 column 1, line 66-column 2, line 7, column 5, lines 28-59), the method comprising:

Kanemitsu teaches retrieving schedule information pertaining to radio programs (column 6, lines 5-13), formatting the schedule information into a program guide (see column 6, lines 14-26) comprising first and second axes and a plurality of elements, the first axis corresponding to a plurality of radio stations (see figures 5-21), the second axis corresponding to a plurality of time slots, each element corresponding to a radio program (see figures 2-21) and displaying the program guide on a screen integrated

with the mobile device (see 5-21 and column 5, lines 24-column 7, lines 52 and column 9, lines 31-column 11, lines 20).

Claims 2,24 Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches the radio program schedule information is retrieved from a remote database (see figure 27).

Claims 3,25 Kanemitsu teaches as explained in claim 2, above. Kanemitsu further teaches the program schedule information is retrieved by a wireless method (column 1, line 66-column 2, line 7).

Claims 4,26 Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches the program schedule information is contained in a cellular transmission received by the mobile device (column 1, lines 13-16).

Claims 5,27, Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches the elements of the program guide are irregularly shaped (see figures 5-21).

Claims 6,28, Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches the program guide is displayed on the screen in response to a user activating a specifically-designated button on the mobile device (see figures 1 and 5-21).

Claims 7 ,29 Kanemitsu teaches as explained in claim 1, above. Kanemitsu inherently teaches at least one element of the program guide corresponds to a radio program to be broadcast in the future.

Claims 8,30 Kanemitsu teaches as explained in claim 7, above. Kanemitsu further teaches receiving a user selection of an element corresponding to a radio program to be broadcast in the future and scheduling a task to receive the selected radio program at a time indicated by the program guide; and in response to the selected radio program being received, caching the radio program (see column 5, lines 39-counn 7 line 51).

Claims 9.,31 Kanemitsu teaches as explained in claim 7, above. Kanemitsu inherently teaches the received radio programs are cached at a location selected from the group consisting of the mobile device, a communication network, and a wireless transmission apparatus connected to the communication network .

Claims 10,32 Kanemitsu teaches as explained in claim 8, above. Kanemitsu further teaches visually indicating within the program guide that a task has been scheduled for receiving the selected radio program (see figure 5-21).

Claims 11, 33, Kanemitsu teaches as explained in claim 8, above. Kanemitsu further teaches playing the cached radio program using the mobile device in response to a user command (column 5, line 28-column 6, lines 4).

Claims 12,34 Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches at least one element corresponds to a radio program broadcast at an earlier time(column 5, line 28-column 6, lines 4).

Claims 13,35. Kanemitsu teaches as explained in claim 11, above. Kanemitsu further teaches selectively receiving a plurality of radio programs and caching the received radio programs (see figure 21).

Claims 14,36 Kanemitsu teaches as explained in claim 13, above. Kanemitsu inherently teaches the received radio programs are cached at a Location selected from the group consisting of the mobile device, a communication network, and a wireless transmission apparatus connected to the communication network (see figure 21).

Claims 15,37. Kanemitsu teaches as explained in claim 13, above. Kanemitsu further teaches the plurality of radio programs is selectively received in response to specified user preferences (see column 6, lines 37-54).

Claims 16,,38, Kanemitsu teaches as explained in claim 13, above. Kanemitsu further teaches the plurality of radio programs are selectively received in response to historical user selections (column 6, line 64 through column 7, line 29).

Claim 39, Kanemitsu teaches as explained in claim 13, above. Kanemitsu further teaches the plurality of radio programs comprise all of the programming broadcast by a particular radio station for a period of time (see figure 8).

Claims 18-19,40. Kanemitsu teaches as explained in claim 13, above. Kanemitsu further teaches receiving a user selection of an element corresponding to a previously-broadcast and cached radio program and playing the cached radio program using the mobile device (see figure 11-21).

Claims 20,42 Kanemitsu teaches as explained in claim 19, above. Kanemitsu further teaches receiving a user selection of an element corresponding to a radio program being currently broadcast receiving the radio program via the Internet', and playing the radio program using the mobile device (column 6, line 64 through column 7, line 29).

Art Unit: 2684

Claims 21,43 Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches at least one element corresponds to a radio program being currently broadcast in a wireless analog transmission [column 16,lines 1-8].

Claims 22,44. Kanemitsu teaches as explained in claim 1, above. Kanemitsu further teaches receiving a user selection of an element corresponding to a radio program being currently broadcast; receiving the radio program via an analog wireless receiver of the mobile device and playing the radio program using the mobile device (see column 6, line 64 through column 7, line 29).

Claim 45. Kanemitsu teaches a mobile device (column 1, line 66-column 2, line 7 and figure 1) comprising:

Kanemitsu tea a wireless digital receiver configured to receive radio program schedule information (see column 16, lines 1-8 and column 6, lines 5-13) a formatting component configured to format the radio program schedule information into a program guide (column 6, lines 14-26) comprising first and second axes and a plurality of elements, the first axis corresponding to a plurality of radio stations, the second axis corresponding to a plurality of time slots, each element corresponding to a radio program (see figures 5-21),, a display screen; and a display component configured to display the program guide on the integrated display screen (see 5-21 and column 5, lines 24-column 7, lines 52 and column 9, lines 31-column 11, lines 20).

.Claim 46. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches a wireless digital transmitter configured to transmit a request for the radio

program schedule information (see 5-21 and column 5, lines 24-column 7, lines 52 and column 9, lines 31-column 11, lines 20).

Claim 47. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches a storage device configured to cache radio programs for future playback (see claim 1 of prior art).

Claim 48 Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches an audio controller configured to convert a radio program into a format that can be played on the mobile device (see column 1, line 66 – column 2, line 8).

Claim 50. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches a wireless analog receiver configured to receive a wireless analog transmission (see column 16, lines 1-8).

Claim 51. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches an analog-to-digital converter configured to convert an analog signal from the wireless analog receiver into a digital signal (see column 16, lines 1-8).

Claim 52. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches a specifically designated button configured to activate display of the program guide (see figure 5).

Claim 53. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches user controls configured to enable operation of the mobile device as a car stereo (column 1, line 66-column 2, line 8).



Claim 54. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches user controls configured to enable operation of the mobile device as a personal stereo (see figure 5).

Claim 55. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches user controls configured to enable operation of the mobile device as a personal desktop assistant (see figure 27 and column 16, lines 10-47).

Claim 57. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches user controls configured to enable operation of the mobile device as a laptop computer (column 16, lines 10-47).

Claim 58. Kanemitsu teaches as explained in claim 45, above. Kanemitsu further teaches user controls configured to enable operation of the mobile device as a webpad (column 16, lines 10-47).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17,41 are rejected under 35 U.S.C. 103(a) as being unpatentable over '262 in view of Nakatsuyama US patent No. 6,658,231.

Claims 17,41. Kanemitsu teaches as explained in claim 13, above. Kanemitsu does not teach a radio program being currently broadcast over the Internet. However,

Art Unit: 2684

Nakatsuyama teaches a radio program being currently broadcast over the Internet.

Kanemitsu and Nakatsuyama both in the music broadcast industry , then, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to modify the system of Kanemitsu to broadcast a radio program over the internet , as taught by Nakatsuyama, in order to download musical or other broadcasting information from electronic access, since it is cheaper and easily accessible.

Claims 49 and 56, Kanemitsu does not teach selected from the group consisting of a speaker, a headphone jack. However, Kanemitsu teaches headphone in the personal receiver and mobile device (see column 6, line 66-column 7, line 18).

Kanemitsu and Nakatsuyama both in the music broadcast industry , then, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to modify the system of Kanemitsu by connecting an audio system for audio output such as speaker and headphone, as evidenced by Nakatsuyama, for continually use of the receiving device.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Berstis (US patent No. 6,944,430) teaches a plurality of users each selects desired listening broadcast programs that are recorded by a system in a memory and indexed to the specific user. The user may also select the desired playback schedule and playback format (see abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

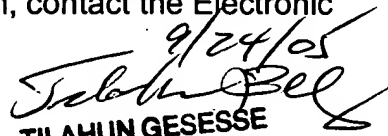
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882.

the Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and 571-273-8300 will be the only facsimile number recognized for "centralized delivery".

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/24/05  
  
TILAHUN GESESSE  
PRIMARY EXAMINER